

Serial No. 09/327,408



Remarks

The present application is a continuation of Application Serial No. 09/070,521 filed April 29, 1998 (the "parent application"), which is a division of Application Serial No. 08/620,374 filed March 22, 1996 (the "grandparent application"), which is a continuation in part of Application Serial No. 08/552,222 filed November 2, 1995 (the "great grandparent application"), which is a continuation in part of Application Serial No. 08/498,900 filed July 6, 1995, which is a continuation in part of Application Serial No. 08/234,644 filed April 28, 1994.

The Examiner objected to the information disclosure statement (IDS) filed on June 7, 1999. However, applicants did not file any IDS on June 7, 1999. Rather, applicants filed one such IDS on June 7, 2001. As such, applicants have taken the Examiner's objection as being directed to the June 7, 2001 IDS. Specifically, the Examiner asserted that the IDS filed was improper in that applicants did not enclose a copy of each of the references listed on Form PTO-1449 (5 sheets). This assertion by the Examiner is simply incorrect. In the June 7, 2001 submission of the IDS, along with a Substitute Power of Attorney, applicants specifically stated that all of the listed references were previously cited by or transmitted to the PTO in the parent, grandparent and great grandparent applications (the "prior applications") identified above, of which the present application claims priority under 35 U.S.C. 120. Applicants also cited 37 C.F.R. 1.98(d) in the submission to explain why copies of the listed references were not enclosed. Rule 98(d) provides:

A copy of any patent, publication or other information listed in an information disclosure statement is not required to be provided if it was previously cited by or submitted to the Office in a prior application, provided that the prior application is properly identified in the statement and relied upon for an earlier filing date under 35 U.S.C. 120.

(Emphasis added). Since the prior applications were properly identified in the initial

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Transmittal of the present application, and the claim of priority of such prior applications was recognized by the PTO. Applicants appropriately relied upon Rule 98(d) to submit the IDS in question, without enclosing any copies of the listed references previously cited by or submitted to the Office in the prior applications. For the Examiner's convenience, applicants re-submit copies of Form PTO-1449 (5 sheets)¹ filed earlier as an Attachment hereto and, again, respectfully requests that each of the listed references be expressly considered and made of record.

In addition, applicants bring to the Examiner's attention an additional reference, namely, Burke et al (U.S. Patent No. 5,333,185), listed on the attached Supplemental IDS Form 1449 (1 sheet), a copy of the Burke reference is enclosed, along with a required fee. It is respectfully requested that the listed reference be considered and made of record.

The Examiner rejected claims 53, 58, 60-67, 72, 73, 75, 76, 78-82, 95, 96 and 98-103 under 35 U.S.C. 102(e) as being allegedly anticipated by Petrunka (U.S. 5,987,116). Petrunka issued from a continuation-in-part (CIP) of an application filed on December 3, 1996. Thus, the effective filing date of Petrunka, at best, is December 3, 1996 which is, however, after the effective filing date of the present application which, at least, is as early as March 22, 1996 (the filing date of the grandparent application). This being so, Petrunka cannot be prior art with respect to the present application under 35 U.S.C. 102(e). As such, the above rejection should be withdrawn. It is respectfully requested that Petrunka be removed from the record as a prior art reference.

The Examiner also rejected claims 68, 69, 83, 84, 104 and 105 under 35 U.S.C. 103(a) as being allegedly unpatentable over Petrunka. Since, as explained above, Petrunka is not prior art with respect to the present application, this rejection should be

¹ However, the listing of the Greenspan patent on sheet no. 4 of re-submitted Form PTO-1449 has been corrected to reflect its accurate patent number, which is 5,590,187, and which was previously communicated to the PTO by way of a Correction of Information Disclosure Statement filed on June 12, 2001.

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withdrawn as well.

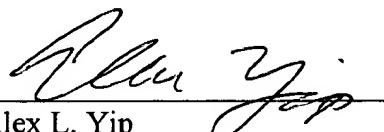
In addition, the Examiner rejected claims 59, 70, 71, 74, 85, 86, 97, 106 and 107 under 35 U.S.C. 103(a) as being allegedly unpatentable over Petrunka in view of Hall. Again, since the primary reference Petrunka is not prior art with respect to the present application, this rejection should also be withdrawn.

The Examiner cited, but did not rely upon, Gerszberg (U.S. 6,052,439) in the Office Action. However, the filing date of Gerszberg is December 31, 1997, which is after the effective filing date of the present application. As such, Gerszberg is not prior art with respect to the present application under 35 U.S.C. Section 102. It is respectfully requested that Gerszberg be removed from the record as prior art references.

Applicants have added claims 108-113, which are drawn to various aspects of the invention. Claims 108-113 are actually pending in Application Serial No. 09/969,974 ("the '974 Application") which is a continuation of the present application. However, to streamline applicants' case administration, the '974 Application is to be abandoned in favor of the present application.

In view of the foregoing, each of claims 53, 58-76, 78-86 and 95-113 is believed to be in condition for allowance. Accordingly, reconsideration of these claims is requested and allowance of the application is earnestly solicited.

Respectfully,

By 
Alex L. Yip
Attorney for Applicants
Reg. No. 34,759
212-836-7363

Date: January 2, 2003
Enclosures
Attachment

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